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NUMBERS

1.012 million

In the first half of 2013, SIPO received 1.012 million patents of three kinds, up 18.1%. It received 316,000 invention patent applications, 397,000 utility models, and 299,000 designs, up 22.5%, 25.6% and 5.7% respectively.

101.2 万件

今年上半年,中国国家知识产权局共受理 3 种专利申请 101.2 万件,同比增长 18.1%。其中,发明专利申请 31.6 万件,实用新型专利专情 39.7 万件,外观设计专利申请 29.9 万件,同比分别增长 22.5%、25.6%和 5.7%。

1.39 trillion yuan

According to the statistics released by Ministry of Industry and Information Technology (MIIT), software revenue in the first quarter this year amounted to 1.39 trillion yuan, up 24.5%. However, the growth rate down 1.7%.

1.39 万亿元

中国工业和信息化部7月29日发布数据显示,上半年,中国软件产业实现软件业务收入1.39万亿元,同比增长24.5%,增速比去年同期低1.7个百分点。

10 millio

Latest statistics shows that car sales and manufactures in Chinese market have both surpassed 10 million in the first half of 2013, up 10% respectively. Giving the credit to the innovation strategy and IPR-driving strategy, domestic brand cars grow steadily.

1000 万辆

最新数据显示,2013年上半年,中国汽车产销量双双超过1000万辆,同比增长均超过10%。同时,中国品牌轿车总体呈稳定增长态势,创新及知识产权驱动作用日益显现。

3,566

2011 and 2012 witnessed fast growth of invention filings in Guangxi. Also it has got a fruitful season for the first half, invention patent filings amounted to 3,566, up 80%, ranking the second nationwide.

3566 件

继 2011 年和 2012 年连续两年 发明专利申请量大幅增长后,今年 1至6月,广西发明专利主要指标 全面提升,专利申请量达 3566件, 同比增长80%,增长率居全国第二 位。

30,770

Since 2008, new patent applications in Yunnan province achieved 30,770, representing 51.6% of the total. 18,822 were granted, representing 51.2% of the total.

3.077 万件

自 2008 年实施建设创新型云南行动计划以来,该省新增专利申请 3.077 万件,占历年专利申请总量的 51.6%,新增专利授权总量的 51.2%。

41,948

SIPO's recent news reveals that Huawei has filed an accumulated 41,948 patents, 30,240 of which have been granted. Also, through have filed 12,453 patents over PCT.

41,948

截至 2012 年底,华为公司累计提交中国专利申请 4.1948 万件,获权 3.0240 万件,通过《专利合作条约》 途径提交国际专利申请1.2453 万件。

Prada prevails in a trademark case "PRADA"拒绝"被广告"

n a first instance decision rendered by Wenzhou (Zhejiang) Intermediate People's court, a local real estate developer Wenzhou Times Real Estate Corporation using illegally Prada's trademarks in the advocacy advertising was ordered to cease infringement and indemnify Prada 140,000 yuan in damages. Meanwhile, the co-defendant Wenzhou Daily Newspaper was ordered to undertake joint liability for the infringement.

Dispute over Prada trademark

On December 1, 2011, the Wenzhou Daily Newspaper published Wenzhou Times's advertisement, in which it advocates that a product promotion meeting and luxury show would be co-hosted by Prada and Wenzhou Times on December 4. Several days later, Prada brought Wenzhou Times and Wenzhou Daily to the court on the ground of the trademark infringement and unfair competition.

Prada claimed that as a world well-known brand, they have established high reputation in the luxury industry. In the advertisement, Wenzhou Times used Prada trademark without authorization to promote their business reputation and has infringed their registered trademark. Meanwhile, the advertisement said that the two companies would hold a promotion meeting and a luxury show, and Prada claimed that they haven't established business relationship with Wenzhou Times, the latter company took advantage of Prada's reputation to harvest inequitable interests, which constituted unfair competition. As the advertisement publisher, Wenzhou Daily Newspaper should undertake joint liability for the infringement.

Prada then sought injunctions and 500,000 yuan in damages to the court. The two defendants should issue an apology in Wenzhou Daily Newspaper to eliminate influence and restore the reputation.

Two defendants' arguments

Established in 2001, Wenzhou Times is a real estate developer. In October 2011, Wenzhou Times signed a contract with the third party Dehu Company and entrusted the latter company to host the above-mentioned promotion meeting and luxury show. According to the

planning scheme provided by Wenzhou Times claimed that based on the Prada's brand influence in the industry, Wenzhou Times would build up a good reputation in less time.

In November 2011, Wenzhou Times held a press conference and signed a advertisement contract with Wenzhou Daily Newspaper. According to the contract, Prada and Times Royal Garden will be highlighted.

Wenzhou Times challenged Prada's claim and argued that the Prada trademark was registered on commodities on Class 18 and Class 25. However, their target groups of the advertisement are real estate consumers, the products or the services they provide are not in the same class with Prada. Meanwhile, even though they used the Prada in the advertisement, they didn't use it as a trademark and no confusion would be created among the consumers, so no trademark infringement is constituted. Wenzhou Times also argued that they are also victim of fraud by the third party Dehu Company, they didn't mean to conduct unfair competition originally.

Infringement was affirmed

The court held that grounds to define the trademark infringement should be based on the protection scope of the trademark law. The involved advertisement was used for brand building and promotion, the public could easily link the Prada with the commodities, so Wenzhou Times' acts violates the trademark law. Meanwhile, based on the content and the purpose of the advertisement, it was defined as a unsolicited advertising not house selling advertisement.

Wenzhou Daily Newspaper also challenged Prada's request and claimed that they have examined Prada's licensing procedures and they shouldn't be responsible for Wenzhou Times's infringement act. The court held that based on the evidences, the contract was signed by Wenzhou Daily Newspaper and Wenzhou Times, Prada hasn't participated in this contract. Wenzhou Daily Newspaper failed to fulfill their obligations of examination violating the advertisement law, so they should bear joint liability.

joint liability.
(by Hu Shuyang)



本报记者 胡姝阳

为了推广旗下开发的某房地产项目,提高自身产品知名度,温州时代集团大地房地产开发有限公司(下称时代公司)在当地报纸刊登广告,制造噱头,宣称携手全球顶级品牌"PRADA"联合举办奢侈品秀、产品说明会,不想却被普拉达有限公司(下称普拉达公司)诉至温州市中级人民法院。近日,法院一审审结此案,判令时代公司与温州日报报业集团有限公司(下称温州日报)在报纸上刊登声明,消除影响,并连带赔偿经济损失人民币共计14万元。

普拉达公司"被广告"诉至法院

2011 年 12 月初,普拉达公司发现时代公司、温州日报未经授权,擅自将"PRADA"商标使用在《温州都市报》2011 年 12 月 1 日第 1 版刊登的有关"2011 年 12 月 4 日时代公司举办'时代御园产品说明会和 PRADA 国际奢侈品秀'"的广告中,并且擅自使用了 PRADA 企业商标,宣称该时装秀是由普拉达公司与时代公

司共同举办。

普拉达公司认为,鉴于其"PRA-DA"商标及字号在奢侈品行业具有极高的知名度,时代公司未经授权擅自使用其商标及字号的行为,侵害了普拉达公司的注册商标专用权。同时,时代公司虚假声称与普拉达公司共同举办产品推介活动,非法攀附和利用了普拉达公司的商誉,损害了消费者的利益,属于不正当竞争行为。另外,普拉达公司表示,温州日报作为前述广告发布者,应对时代公司的侵权行为承担连带责任。

综上,普拉达公司请求法院判令时代公司、温州日报停止侵害其注册商标专用权行为和不正当竞争行为;要求俩被告在《温州都市报》刊登声明,消除影响;并连带赔偿经济损失共计50万元。

二被告均否认侵权

据悉,时代公司成立于 2001 年 1月,系一家从事普通住宅开发业务的公司。据了解,2011 年 10 月,时代公司苍南开发部作为主办方,委托案外人德沪公司于 2011 年 12 月 4 日

举办时代御园产品说明会活动。其中,时代公司提供的 PPT 内容为 "2011Prada 秋冬新品主题秀暨时代· 御园产品说明会活动方案",在该方案中明确提出活动的目的为"通过嫁接意大利百年时尚品牌的影响力,时代· 御园能以最短的时间在圈内形成良好的口碑传播效应, 为以后的销售打下坚实基础"。

同年 11 月,时代公司苍南开发部为其开发的房地产项目举办说明会,与温州日报公司都市报分公司签订了一份温州都市报广告承揽合同书。涉案广告将"PRADA"商标与"时代·御园"标识并列突出标注于广告上方,以花体"Times Royal Garden & Prada"作为广告背景。

然而不想此举却将时代公司卷入 了一场知识产权诉讼当中。面对普拉 达公司的指控,时代公司表示,普拉达 公司的"PRADA"系列商标核准使用 在第18类、第25类商品上。而涉案广 告对应的商品或者服务为商品房或者 商品房销售,与"PRADA"系列商标核 准使用的不是同一或者类似商品。时 代公司苍南开发部在广告中所使用的 被控标识对其楼盘并没有商标性的标 识作用,不具有区分产品或服务来源 的作用,不属于商标使用,不会导致消 费者对楼盘来源或者销售主体产生混 淆,故没有侵害商标权。另外,时代公司 指出, 其系受案外人欺诈订立委托服 务合同,并不具有与普拉达公司进行 不正当竞争的恶意。

法院判令承担连带责任

针对时代公司及温州日报的行为是否构成商标侵权,法院认为,涉案广告上使用的被控标识是否属于商标法意义上的使用应以使用被控标识的客观表象为依据加以判断。涉案广告属于广告宣传,通过其广告设计足以判定"PRADA"标识均能起到标示商品来源的作用,均为商标使用。同时,从涉案广告的内容来看,该广告系一场活动的邀约广告。因此,涉案广告并非时代公司、温州日报公司主张的系商品房销售广告。

庭审过程中,温州日报未提供证 据证明温州日报公司都市报分公司 审查了普拉达公司的授权手续。法院 认为,温州日报公司都市报分公司作 为广告发布者,其所承揽的广告落款 仅仅有"时代地产",而没有普拉达公 司的任何信息,更应当引发其必要的 审查义务。在此情形下,温州日报公 司都市报分公司仍然接受时代公司 苍南开发部的委托发布侵权广告,违 反了广告法的规定,造成普拉达公司 的商标权受到侵害的后果。温州日报 应当审查涉案广告合法性而未审查, 为时代公司苍南开发部实施侵权行 为提供了便利条件,应当和时代公司 承担连带责任。

China's IP in foreign eyes



hinese-branded smartphones, led by Huawei, have made headway in the global smartphone shipments due to their strong brand image and channel support, despite Samsung and Apple's dominance. It was also found the shipment of Chinese-branded smartphones - Huawei, ZTE, Lenovo and Coolpad - had increased 44 percent compared to the same quarter last year 2012, and also made it

to the top ten in terms of global smartphone shipments. (Chinese smartphones strengthen foothold in Q2 top 10, by ZDNet.com)

尽管三星和苹果仍然占据霸主地位,以华为为首的中国智能手机品牌,以其强大的品牌形象和渠道支持,已经在全球智能手机出货量方面取得了进展。华为、中兴通讯、联想和酷派等四大中国智能手机品牌今年第二季度的出货量比去年同期增加了44%,并因此进入全球排名十强。(《中国智能手机第二季度排名入全球十强》,置项网)

Comment:

According to research data, smartphone shipments for Q2 2013 hit 221 million units, an increase of 6.6 percent from the previous quarter, and a 31.4 percent increase of the same period a year ago. Having made it to the global top ten, the potential of China's top smartphone brands cannot be taken lightly by their international competitors.

点评:

根据研究数据,2013年第二季度全球智能手机出货量达到2.21亿台,比上一季度增长了6.6%,比去年同期增长了31.4%。对已经进入全球十强的中国顶级智能手机品牌的潜力,国际竞争对手不能对其掉以轻、



s China's economy catches up with America's in pure size, it's worth asking

whether China will eventually assume the top spot when it comes to innovation as well. China is churning out ever more science and technology graduates and climbing the global rankings in patent applications. More global innovation is a good thing for everyone - so there's no reason to fear China's increasing technological heft. (To Remain Tops in Innovation, the U.S. Needs Immigration Reform, by

Bloomberg Businessweek) 随着中国经济在规模上追逐美国,中国是否会在创新上最终成为世界第一,这是个值得关注的问题。中国"出产"了越来越多的科技领域的大学毕业生,并不断刷新其全球专利申请排名。更多的全球创新对每个人来说都是一件好事——因此我们没有理由担心中国日益增长的科技分量。(《保持创新领先,美国须移民改革》,彭博商业周刊)

Comment

The U.S. retains a strong global lead in research and new inven-

tions, in large part because the U.S. continues to attract innovative talent from the world over, including from China. But the trends are changing. More and more scientists and technology developers from China as well as other developing countries are returning home and contribute to its innovative ability.

点评:

美国仍然在研究和新发明上保持 着全球领先,这在很大程度上是因为 美国不断吸引着来自世界各地,包括 中国的创新型人才。但形势正在发生 改变。来自中国及其他发展中国家的 科学家和技术开发人员正在返回家园 并为当地创新能力建设做出贡献。

(by Correspondent Wang Weiwei from Canada)

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